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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,590	07/13/2001	Daryl Craig Josephson	00001	4281

7590 08/04/2009

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EXAMINER	
WOZNIAK, JAMES S	
ART UNIT	PAPER NUMBER
2626	
MAIL DATE	DELIVERY MODE
08/04/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/905,590	JOSEPHSON, DARYL CRAIG	
	Examiner	Art Unit	
	JAMES S. WOZNIAK	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 May 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10,12-36 and 38-44* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10,12-36 and 38-44* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 April 2008* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. In response to the notice of a non-compliant amendment from 4/1/2009 and the Final Office Action from 7/9/2008, the applicant has submitted an amendment, filed 5/5/2009, adding significant portions to the specification and making no amendment to the claims, while arguing to traverse the art rejection for numerous reasons *(Amendment, Pages 55-68).* Applicant's arguments have been fully considered, however the previous rejection is maintained due to the reasons listed below in the response to arguments.

2. In response to the amended specification beginning at Page 49, Line 1 *(where the applicant has corrected element numbers that did not correspond to the correct drawing elements shown in Fig. 4A, Amendment, Page 53)*, the examiner has withdrawn the previous corresponding objection to the disclosure directed towards minor informalities *(OA from 7/9/2008, Page 9, item 9).*

3. In response to the specification amendment beginning at Page 58, Line 5 *(where the applicant has specified the specific figure number, Amendment, Page 54)*, the examiner has withdrawn the previous corresponding objection to the disclosure directed towards minor informalities *(OA from 7/9/2008, Page 9, item 9).*

4. In response to the specification amendment beginning at Page 65, Line 22 *(where the applicant has corrected the element numbers assigned to the analyzer filters and analyzer, Amendment, Page 54)*, the examiner has withdrawn the previous corresponding objection to the disclosure directed towards minor informalities *(OA from 7/9/2008, Page 9, item 9)*.

5. In response to the specification amendment beginning at Page 70, Line 4 (where the applicant has corrected the element number assigned to the command input resolver), the examiner has withdrawn the previous corresponding objection to the disclosure directed towards minor informalities *(OA from 7/9/2008, Page 9, item 9)*.

6. In the examiner status section, the applicant first argues that in the Office Action from 7/9/2008, the examiner asserts that the applicant's traverse regarding the previous rejection from 11/21/2003 is moot because the amended claims necessitated new grounds of rejection and alleges that in making this statement, the examiner has impliedly admitted that the applicant did not make amendments to overcome the prior art utilized in the rejection from 11/21/2003 because this cited art did not render the claims unpatentable *(Amendment, Page 26)*.

In response, the examiner points out that no such admission was made impliedly or otherwise. In the applicant's response filed on 4/3/2008, the applicant submitted significant amendments to independent claims 1, 3, and 4 and added new claims 5-44.

Since the claims now included subject matter which changed their scope and was not previously recited, these amendments necessitated further search/consideration and a new grounds of rejection. This matter is to which the aforementioned examiner's statement is referring and makes no type of implied admission as the applicant has alleged. Thus, a new grounds of rejection was necessitated because the claim scope had significantly changed not because the previous prior art from the 11/21/2003 Office Action failed to render the applicant's claimed invention from 7/13/2001 unpatentable.

7. Next, the applicant continues to allege that the applicant disagrees that a continuation was discussed *(Amendment, Page 26)*. In response, the examiner notes that the previous position set forth in the Final Office Action from 7/9/2008 *(Pages 2-3)* is maintained. The applicant also makes allegations regarding internal documents related to USPTO policy *(Amendment, Page 26)*. The examiner is unaware as to which documents the applicant is referring. Examining procedures are detailed in MPEP 700. Otherwise, these allegations fail to overcome the objections/rejections of Office Action, and thus, are considered moot.

8. In regards to the Election/Restriction section of the Final Office Action from 7/9/2008 *(Page 3)*, the applicant makes the argument that only claim 11 was withdrawn while claim 37 was not withdrawn or rejected and should be allowable *(Amendment, Page 27)*. In response, the examiner clarifies that claim 37 was listed with claim 11 under a section heading entitled *"Election/Restrictions" (Amendment, Page 3)*. Further,

discussion was made as to why claim 37 was directed to an invention different from that originally claimed *("directed to multi-system processing", Page 3)*. Thus, although claim 37 was omitted in the "withdrawn from consideration" statement as a result of a typographical error, it was clear that it was intended to be included in this statement because it was bolded under the "Election/Restrictions" section of the Office Action and described as to how it differed from the originally claimed invention. Therefore, this claim is clearly not allowable, but has been withdrawn from consideration as being directed to a non-elected invention. In response to the applicant's comments/arguments directed towards their being prevented from claiming certain aspects of their invention *(Amendment, Pages 27-28)*, the examiner notes that the claimed invention is directed towards conversant speech recognition based embodiments. As non-speech commands require a different type of processing than speech and receive a different classification in the art *(i.e., gesture, etc or image recognition, class 382)*, the restriction of claims 11 and 37 is proper. Also, it is noted that the applicant's discussion of claims 11 and 37 is moot, as it has been canceled in the presently filed amendment.

9. The applicant has addressed the 35 U.S.C. 112, first paragraph rejection directed to claim 28 or the 35 U.S.C. 112, second paragraph rejection directed towards Claims 25-26. As such, these rejections have been maintained.

10. In response to the objection directed towards claim 1 and 3-4, which recite “use-based" objectives, the applicants argue that “the terms use and used based are disclosed throughout the originally filed specification” and believes that the examiner has already entered amendments including this term *(Amendment, Page 28)*.

In response, the examiner has carefully reviewed the initially filed specification from 7/13/2001 and was able to find only one instance of “use-objective”. Only page 35 of the originally filed specification even mentions use-objective and seems to contradict the “user-objective” terminology which populates the entire specification. Thus, it is believed that this instance of “use-objective” is actually a typographical error and has been objected to below. As per the entered amendment, the examiner notes that the only amended portion of the specification that includes this terminology is on Page 17 of the amendment from 4/3/2008 and is merely an amendment of the aforementioned original Page 35. Thus, the examiner did not enter this claim language as being permissible and merely overlooked an apparent typographical as part of a lengthy disclosure. As such, this previous objection directed towards claims 1 and 3-4 has been maintained. It is recommended that the applicant amend "use-based objective” to –user-based objective-- in order to clarify their claim language as being consistent with the originally filed specification and overcome this objection.

11. In response to the applicant’s amendment of claims 16, 27-31, the examiner has withdrawn the associated previous objections directed towards minor informalities.

12. The applicant next turns to the objections to the specification directed towards new matter issues. Before addressing the specific objections, the applicant first argues that that no new matter was submitted in the previous amendment filed on 4/3/2008 and the examiner should have known that there was no new matter filed in the case due to the alleged support provided by the applicant in the corresponding response *(Amendment, Page 29)*. The examiner respectfully disagrees. Consideration of the applicant's support for the amendment and the originally filed specification was made and the substantial additions to the original specification were still found to contain new matter for the reasons clearly provided/described on Pages 4-7 of the previous Office Action. These new matter issues result from significant additions/expansions to the originally filed specification that go beyond a simple clerical/grammatical touch up of the original specification, and thus, includes new matter. The examiner will address the applicant's specific arguments pertaining to each new matter issue below.

13. With respect to the new matter objection of the specification directed towards page 58 starting at line 5, the applicant argues that the examiner's objection is erroneous because the only example provided is the entertainment systems and that the repeating of Fig. 13b is superfluous (Amendment, Page 30). In response the examiner notes that the entertainment system-related items are all directed towards new matter. The secondary mention of 13b is merely a typographical. Figs. 3a and 13b are nearly identical and the repeat of Fig. 13b should actually be Fig. 3a. This error has been corrected in the below objection. Going back to the originally filed drawings that

were supported in the originally filed specification, it can be seen that Fig. 3 is most closely related to the aforementioned figures. Comparing the original Fig. 3 to the aforementioned figures, it can be readily seen that the applicant has added a plurality of elements that were not shown in this figure or even contemplated in the originally filed specification *(i.e., entertainment systems shown on the right side of the drawing as well devices associated with entertainment systems such as the remote controller shown on the right side of Fig. 3a and 13b)*. As further evidence that these entertainment devices are directed towards new matter, the examiner points out that the applicant added new matter in describing Fig. 3 in the form of a new sentence added to the specification beginning at page 30, line 11: "Lesser related intermittent tasks may also include, for example, temporarily interrupting using computer 312 of FIG. 3a to control light 313cl, a television, stereo/gaming equipment, and so on." Fig. 13b also includes the elements of Fig. 3a, which as described above, are directed to new matter. So when the amendment starting at page 58, line 5 references these figures, they include new matter. Thus, this previous objection is proper and maintained.

The applicant has also pointed out where the brief description of these figures and other similar figures directed towards new matter was not objected to *(Amendment, Page 30)*. With this omission brought to the examiner's attention, these additions to the specification have also been objected to below for being directed towards new matter. The applicant presented significant amendments on 4/3/2008 requiring significant review and the alleged omitting of these brief descriptions from the previous objections was not an admission of any type by the examiner *(alleged by the applicant,*

Amendment, Page 31) as is clear from the fact that the detailed descriptions of these drawings were explicitly objected to as being directed towards new matter *(Prior Office Action, Pages 4-7)*. Clearly, if the detailed descriptions were directed towards new matter their associated brief descriptions would also be directed towards new matter. Once again, the examiner does find these brief descriptions to be directed towards new matter and they have been included in the below objections.

Next, the applicant presents arguments as to why amended Fig. 13b is not directed towards new matter. First, the applicant argues that the specification portion in question on Page 58 does not use the language "entertainment systems" *(Amendment, Page 31)*. The examiner notes that this language was merely provided in order to specify a grouping of the added types of entertainment-related items shown in Fig. 13b. The applicant next argues that the original specification does recite an "entertainment system" *(Amendment, Page 31)*. The examiner does find this example of a *generic* entertainment system. The problem with Fig. 13b as well as 3a is that the applicant has added specific types of entertainment systems beyond this generic citation *(i.e., game, stereo systems, etc.)*. In the amended description of Fig. 3a, which starts at Page 30, Line 11, the applicant added these specific types. Since 13b and 3a include these new elements not described in the original specification, these drawings as well as their citations in the specification are directed towards new matter. For further comparison, see the original Fig. 3a and observe the significant changes that were made in the previous amendment. Third, the applicant argues that Fig. 13b is supported by the original Fig. 3a *(Amendment, Page 31)*. This argument is not convincing because there

have been significant additions to this figure in the amendment filed on 4/3/2008, as is described above. It is worth noting that the applicant even appears to admit that some of these elements are clearly new *("game or gaming machine", Amendment, Page 31)*. In response to the applicant's issue of "entertainment system" being supported by the original specification *(Amendment, Page 31)*, the examiner notes that, as is described above, it is the specific added types of entertainment devices that is the issue necessitating the new matter objection. Thus, these arguments have been fully considered, but are not convincing and Fig. 13b, 3a, and the citations/mentions thereof are directed towards new matter.

Next, the applicant presents arguments directed towards the second instance of 13b *(Amendment, Page 32)*. As was pointed out above, as a result of a typographical error, one of these instances should be listed as Fig. 3a.

In addressing the specification objection directed toward Fig. 15f, the applicant argues that the amendment starting at Page 58, line 5 does not reference this figure *(Amendment, Page 32)*. In response, the examiner notes that in fact, this objection should be considered in addition to the objection directed towards the amendment starting at Page 58, Line 5. In the amendment from 4/3/2008, starting at Page 8, Line 3, Figs. 15f and g are described with respect to their new matter descriptions as is detailed in the previous Office Action *(Pages 4-5)*. For Fig. 15f, the description includes biometric, movement recognition for user identification *(which relates to image recognition)*, which was not described in the originally filed specification. Thus, this objection has been maintained, but separated for clarity below. In support of Fig. 15 f

and its associated descriptions as being supported by the original specification, however, the applicant argues that on original page 67, line 21- page 68, line 29, Fig. 15 f is supported *(Amendment, Page 33)*. While the examiner does/did see support for some of the user identification types described with respect to 15f, the issue remains that, similar to Figs. 13b and 3a above, the applicant appears to have expanded, without support, what was originally filed. In this instance, there is no support in the original specification for proximity-based identification as the original specification is silent as to this type of user identification. Thus, claim 15f and its associated description are directed towards new matter is maintained.

In response to the applicant's comments regarding the alleged omission of the brief description from the specification objection *(Amendment, Page 33)*, the examiner notes that, as was pointed out above, this omission has been clarified, is not an admission, and that the objection of the Page 58, line 5 amendment includes the objection of the brief description for the same reasons that were pointed out above with regard to Fig. 15f. For support for Fig. 15g, the applicants argue that at Page 27, Lines 8-13 of the original specification, it was noted that common user mis-recitations can be trapped *(Amendment, Page 33)*. In response, the examiner notes that this portion of the specification only makes a mention of this function in a general fashion. On the other hand, Fig. 15g shows/describes specific elements that have been expanded/added from the original passage. The specific elements associated with this function were not described in the originally filed specification *(such as a specific trapping interpreter and memory)*. The memory mentioned by the applicant on Page 34

of the amendment stores all commands and is not trapped command specific as shown in Fig. 15G. Also, the multi-output/result of the trapping interpreter is not described. Thus, Fig. 15g and its associated references are directed towards new matter.

The applicant next argues the specification objection directed towards the amendment beginning at Page 22, line 14. In response to the allegation that the examiner admitted that the original Fig. 3a included gesture recognition, the examiner notes that the only admission that was made was that a user is shown next to another user pointing to a computer and nothing beyond *(Prior OA, Page 5)*. There was not a device for making such a gesture or any of the other recognition types in the original specification as was added in the amendment from 4/3/2008. More specifically, original Fig. 3a only showed one user pointing to a computer system while another user sits nearby. In the amendment to the specification starting at Page 22, line 14, the applicant added a significant description that could not be gleaned from the aforementioned simple illustration. In the original description of Fig. 3a, all that was described was a user instructing another user or controlling a machine. There was nothing discussed regarding the specific gazes/gestures used to control a machine that was recited as the applicant argues.

Next, the applicant argues that the original Fig. 3a is more extensive than the examiner admits. More specifically, it is argued that the figure shows various items for control as well as a user head and body particularly positioned. The applicant also refers to the original specification Page 115, lines 24-31 for support *(Amendment, Pages 35-36)*. In response, the examiner once again notes that the applicant appears

to be adding meaning that was not in any way supported by the original specification. It is uncertain how looking at a drawing of two users surrounding a system the idea of various recognition types could be supported. It is unclear how the users body/head positions relate in any way to any type of command. Also, the cited portion of the specification merely notes that modifications may be made to the applicant's invention and does not describe any of these specific recognition types. Thus, this argument has been fully considered, but is not convincing. The applicants arguments/comments directed towards the interfaces in the specification are not directed to the aforementioned informalities and thus do not overcome this objection *(Amendment, Page 36)*.

The applicant's arguments that the specification can be amended to include recitations pertaining to the original drawings *(Amendment, Pages 36-38)* are not convincing. For the above noted reasons, the applicant has expanded general recitations/illustrations with very specific examples that were not supported by the specification. The applicant's amendments are not merely simple descriptions of what was already shown in a general drawing or recitation in the originally filed specification and are directed towards new matter. The applicant next provides specific examples as to why the amendments starting at Page 22, line 14 are supported in the originally filed specification *(Amendment, Pages 38-39)*. In response, the examiner notes that while there does seem to be support for the added pointing device, the specification is still completely silent as to any type of head, body, or gaze recognition. The below

objection has been altered to this effect, but the applicant's arguments are ultimately unconvincing.

Next, the applicant traverses the new matter objection to the specification amendment beginning at Page 27, Line 4. Specifically, the applicant relies on the above arguments directed towards Fig. 15g *(Amendment, Pages 39-40)*. In regards to such arguments, see the above response directed towards Fig. 15g.

Next, the applicant traverses the new matter objection to the specification amendment beginning at Page 30, Line 11. Specifically, the applicant first argues that it is not clear whether the examiner admits or objects to the general or particular examples *(Amendment, Page 40)*. The examiner notes that it is the specific types of devices controlled under the terminology lesser related intermittent tasks as is clear from the objection at the bottom of Page 5 of the previous Office Action. Again, the applicant has added specific examples that were not supported in the originally filed specification. The original specification did not at all mention controlling lights, television, stereo/gaming systems etc as is set forth in the aforementioned amended passage.

The applicant continues to argue the support of the amendment starting at Page 30, Line 11 by noting that the surrounding disclosure should be considered as support and provides these citations. The applicant argues that the added text thus only exemplifies the original definitions and examples *(Amendment, Pages 40-41)*. In response, the examiner notes that the original specification provides a general description of lesser related intermittent tasks. The original specification does not

describe or support the specific systems that the applicant has added in the previous amendment. While Page 28, Lines 17-20 would seem to support some type of stereo interfacing, it seems that it is in regards to guidance rather than control. Nowhere in the original specification is a gaming system discussed in any fashion and stereo or light control is simply not recited. Although the applicant's specification regards general machine control, it does not support the specific examples added by the applicant in the amendment from 4/3/2008. These additions are not simply obvious variants of the general descriptions or inherent because not every computer system would include the very specific components which the applicant has added in their amendment. Thus, since there is no support for these specific examples or disclosure of the devices involved, the new matter objection is proper.

The applicant next argues that each of the specific machines is supported by original Fig. 3a *(for example, a game machine)* and its description which generally describes an entertainment system *(Amendment, Pages 41-42)*. In response, the examiner has once again review Fig. 3a. Fig. 3a is a simple illustration that shows a user pointing to a computer screen while another user sits nearby. It also depicts what appears to be an office setting featuring a desk. Nowhere in this picture is anything even resembling a gaming system present. The specification makes no mention of a game or any type of gaming. Thus, gaming systems are not supported by this original figure. In regards to the specification, the examiner notes that the applicant has taken a very broad term and expanded it to encompass a very specific definition including very specific items. These items were not supported in the original specification, and thus,

are directed towards new matter. Thus, this argument has been fully considered, but is not convincing.

Finally, in regards to the amendment starting at Page 30, Line 11, the applicant argues that controlling of the additional components is clearly set forth in the original disclosure because the specification provides examples of device control and continues to provide these examples *(Amendment, Page 42)*. In response, the examiner notes that while the specification does detail general device control and even provides some examples in the form of a computer, the originally filed specification in no way encompasses the additional components added by the applicant in the amendment from 4/3/2008. The applicant has attempted to expand/change the scope/definition of what is encompassed by these general descriptions in a manner that is not supported by the originally filed specification by adding very specific components that were not described. Thus, this alleged support has been fully considered, but is not convincing in withdrawing the corresponding new matter objection. In response to the applicant's arguments that this objection is confusing and may not have been intended by the examiner *(Amendment, Page 43)*, the examiner notes that such an objection was clearly intended and clearly pointed out which is why it was included under the section heading directed towards specification objections. If the objection was unintended it would not have been made.

Next, with regards to the objection of the amendment to the specification starting at Page 32, Line 29, the applicant argues that Fig. 13B, which is referenced in this passage is taken from originally filed Fig. 3A and is not directed to new matter under

similar rationale *(Amendment, Page 43)*. The applicant also argues that gaming systems were not considered in this objection *(Amendment, Page 43)*. In response, please see the appropriate responses above, which explain why Figs. 13B and 3A are directed towards new matter. Also, it is pointed out that on Page 6 of the Office Action from 7/9/2008, "gaming systems" was explicitly mentioned in this objection as well as in regards to other instances of these figures in the specification. Thus, these arguments have been fully considered, but are not convincing.

The applicant argues that the amendment to the specification beginning at Page 47, Line 10 is not directed towards new matter because that this portion of the specification has been amended to reinstate the deleted portion, which necessitated in the objection *(Amendment, Page 44)*. If this specification amendment beginning at Page 47, Line 10 pertaining to the context and task engine definitions was corrected/restored accordingly, the examiner would have withdrawn this new matter objection to the specification. As this amendment has not been made in the present response, however, this objection is maintained.

The applicant argues that the amendment to the specification beginning at Page 47, Line 10 is not directed towards new matter because it is alleged that Fig. 10C-D were respectively supported by originally filed Figure 5 that was labeled “VI Converter” and a non-numbered drawing labeled “New CMD Conversion” *(Amendment, Pages 44-45)*. The applicant also argues that these drawings having been omitted in an objection is an admission by the examiner that the drawings and the descriptions thereof are not directed to new matter *(Amendment, Page 45)*. In response to the applicant's

comments directed to the brief description, see the corresponding response above, which addresses these allegations multiple times. Moving to the applicant's alleged support for these drawings then, it appears that Fig. 5 of the originally filed specification does directly correspond to Fig. 10C, with Fig. 10C being a machine rendered version of the original hand sketch. Likewise, the previously unnumbered Fig. labeled "New CMD Conversion" directly corresponds to the previous Fig. 10D with the exception of the "Interface Glue" which was not shown in the original figure "New CMD Conversion" or even mentioned in the original specification. In the present amendment, the applicant has amended Fig. 10D to change element 1033b back to its original name in the form of "Iteration Check". Based on these amendments and the aforementioned original figures, the examiner notes that Figs. 10C-D are not directed towards new matter and their reference in the amendment to the specification beginning at Page 47, Line 10 is not directed towards new matter. Accordingly, this objection has been withdrawn.

The applicant argues the new matter objection to the specification amendment beginning at Page 58, Line 5 by alleging that the recitation of Fig. 13b is not directed towards new matter for reasons similar to the amendment to specification beginning at Page 30, Line 11 and also note that similar Fig. 3a has been omitted from this objection *(Amendment, Pages 45-46)*. In response to such arguments, see the above response directed towards the amendment to specification beginning at Page 30, Line 11. Also, in regards to the omission of Fig. 3a in this objection, the examiner notes that it was clear that Fig. 3a was considered to contain new matter as per its multiple inclusions in

the new matter objections. Its exclusion was a result of a typographical oversight, and has been corrected in the below objection.

The applicant next turns their attention to the objection directed towards the amendment to the specification beginning at Page 62, Line 17. In this objection, there was an issue taken with the amendment because very specific definitions were added to the specification that described the parser and simulator/emulator/other machine. The applicant first argues that the examiner admitted that the originally filed Fig. 6a included the parser and the connected simulator/emulator/other machine *(Amendment, page 46)*. The examiner has again reviewed original Fig. 6a and agrees that such elements are present *(parser- original element 526 and simulator/emulator/other machine- original element 531)*. The applicant than traverses that the added descriptions associated with these elements are not directed to new matter. In the case of the parser, the applicant notes that the added definition of the parser is in line with the commonly accepted/utilized definition of a parser, which is a means for breaking an input into defined portions *(Amendment, Page 47)*. The examiner has considered these arguments and since the scope of the applicant's parser definition does not at all go beyond the accepted dictionary meaning of this word and since the parser was shown in original Fig. 6a, the parser definition added to the specification is not directed towards new matter. In the case of the simulator/emulator/other machine, the applicant argues that original Fig. 6a clearly shows a connection between the executor components and the simulator *(Amendment, Pages 47-48)*. In response, the examiner finds that original Fig. 6a does show this connection and since the added definition of this component

does not go beyond describing the shown connection, the examiner notes that this amendment is not directed towards new matter. Accordingly, the new matter objection directed to the amendment of the specification beginning at Page 62, Line 17 has been withdrawn.

Lastly, in regards to the new matter objections directed towards the amended specification, the applicant turns their attention to the amendment beginning at Page 65, Line 22. The applicant begins their arguments by first arguing that the characteristics described in this amendment are inherent/supported in the originally filed disclosure and proceeds to argue the merits of the command input resolver. For support of the command input resolver, the applicant argues that the device is called a command input resolver and thus would inherently resolve input commands based on the original figure 7d *(Amendment, Page 49)*. The examiner agrees that the original term "command input resolver" does inherently support resolving an inputting command. The issue with this amendment is that it includes a very specific manner in which the resolver operates on the input *(i.e., according to "root base, designation, extension" etc.)*. The sections of the specification relied upon by the applicant *(Amendment, Pages 49-51)* only describe general command/dictation or partial command/dictation resolution processes. Nowhere in these passages is there a connection between this component relying on the aforementioned considerations to resolve a user input. It is this definition that was extended from the applicant's originally filed specification that was not supported and is the cause of the new matter issue with respect to the command input resolver. Thus, this argument has been fully considered, but is not convincing. For support of the

"machine switcher 744" the applicant argues that the machine switcher inherently "provides for machine switching" and points to various portions of the specification which allegedly teach its corresponding functions *(Amendment, Page 51)*. In response, the examiner has reviewed these portions of the originally filed specification and finds them at most to be only general commentary relating to some of these functions. These functions are never linked, in the originally filed specification, to a single component in the form of a "machine switcher". It is unclear that operations such as cueing, muting, etc. would even be relating to machine switching. While the examiner would note that a machine switcher would inherently perform machine switching, the plurality of other operations that the applicant alleges were supported as being associated with the machine switcher in the originally filed specification are non-existent. Thus, the addition to the specification directed to the machine switcher contains new matter. For support of the Data carrier filler, the applicant argues that this component "clearly inherently provides for conducting data carrying/filling" *(Amendment, Page 51)*. As the applicant's added definition to this component does not expand upon the inherent statement, which the examiner notes would be supported, this particular component is not directed to new matter as the original Fig. 7e contained a data carrier/filler *(Element 646)*. The below corresponding objection has been modified to this effect. For support of the "choice/error feedback engine" the applicant points to various portions of the specification which allegedly teach its corresponding functions *(Amendment, Page 51)*. The cited portions generally discuss providing a user with information and with expected responses. They in no way connect determining, generating, or directing, user/machine

feedback to a specific component known as the “choice/error feedback engine”, they are merely general statements to which the applicant has added an expanded definition through the specification amendment. Thus, this argument has been fully considered, but is not convincing. Finally, for support of the “machine controls” the applicant argues that this component "inherently provides for determining or conducting machine control" *(Amendment, Page 51)*. As the applicant's added definition to this component does not expand upon the inherent statement, which the examiner notes would be supported, this particular component is not directed to new matter as the original Fig. 7e contained a data carrier/filler *(Element 648)*. The below corresponding objection has been modified to this effect.

Accordingly, the below new matter objections to the specification have been maintained for at least the preceding reasons.

14. The applicant next turns their attention to the objections directed towards the drawings. The applicant first notes that they have filed several new portions of the specification in order to overcome objections directed to missing descriptions corresponding to drawings *(Amendment, Page 52) (see also Prior OA, Page 7, Item 7)*. While these previous objections have been overcome, it is noted that some of these additions have raised the issue of new matter. Objections to this effect have been set forth below. It is also of note that the applicant has provided no indication that the amendments do no contain new matter. The applicant next argues that Fig. 17 has been amended so that its element numbers differ from those in Fig. 16 *(Amendment,*

page 52). In response, the examiner has withdrawn the previous corresponding objection to the drawings.

The applicant next turns to the objections of Figs. 3A, 10C, 10D, 13B, and 15G. For Fig. 3A (which was intended by the previously noted "Fig. 3" and has been clarified below), the applicant argues that the objection was unclear and lacks sufficient detail and that changes to the original figure were minor and non-substantiative *(Amendment, Page 52)*. The examiner respectfully disagrees. It is apparent in comparing the original Fig. 3A to the current Fig. 3A that substantial changes have been made and objects that were not even shown in the original figure. These changes are, thus, much more than non-substantial as the applicant alleges. In the objection, these additions were clearly indicated as "different items no originally shown" *(Prior OA, Page 8, item 8)*. Therefore, this argument has been fully considered, but is not convincing.

The applicant next traverses the objection of Fig. 10C by arguing that the applicant is unable to determine the reason the objection is raised *(Amendment, Page 52)*. In response, the examiner notes that since Fig. 10C corresponds to original Fig. "New CMD Conversion" *(which was previously unnumbered)*, this objection has been withdrawn.

The applicant has not addressed the new matter objection directed to Fig. 10D in this section, which included the element "Interface Glue", however this objection has been withdrawn because in the present drawing amendment the applicant has changed this element back to "Iteration Check" which is the terminology utilized in the original figure.

The applicant has traversed the drawing objection of Fig. 15G for reasons similar to those directed to Fig. 15G in the description *(Amendment, Page 53)*. In regards to such arguments, see the corresponding response directed towards Fig. 15G in the above specification discussion.'

Lastly, in regards to the drawing objection directed towards Fig. 13B, the applicant argues that they are unable to make sense of the objection because 13B was submitted as a newly added drawing and cannot be different from what was originally shown *(Amendment, page 53)*. In response, the examiner points out that the applicant admits that "FIG. 13B is also taken from originally filed FIG. 3A" *(Amendment, Page 43)*. Thus, the applicant appears to understand that this Figure is identical to Fig. 3A and amended Fig. 3A *(which was also noted as containing new matter)*. Thus, the items are different from those originally shown not with respect to a previous Fig. 13B, but with respect to original Fig. 3A, which the applicant expressly recognizes as being the figure from which Fig. 13B is derived. Therefore, Fig. 13B is directed to new matter for reasons similar to Claim 3A.

Response to Arguments

15. Applicant's arguments directed to the prior art rejections have been fully considered but they are not persuasive for the following reasons:

The applicant begins by traversing the art rejection under 35 U.S.C. 102(e), alleging that Watanabe et al *(U.S. Patent: 6,035,267)* fails to teach "Determining

whether the voice information includes command information and if so then" because the performance of the proceeding steps are contingent on the trailing conditional statement "and if so then", which the applicant alleges was ignored by the examiner and not taught by Watanabe (Amendment, Page58).

In response, the examiner notes that such a conditional statement is taught by Watanabe. More specifically, Watanabe teaches that a user input in a natural language is received by the interactive command recognition system and analyzed to determine whether it includes command information *(Col. 4, Line 65- Col. 5, Line 16; and Col. 5, Lines 60-62)*. Looking to Fig. 2, it can be seen that the speech recognition in Watanabe is dependent upon various recognition knowledge databases that include various known system commands *(such as Element 11)*. If a user were to speak a non-sense statement into the system or a command outside those known to the system, the system would inherently be unable to proceed with its meaning extraction steps, as it extracts meaning within its scope of knowledge. In this way, Watanabe does anticipate the conditional statement that the applicant has alleged that this reference fails to teach.

The applicant continues to argue the aforementioned conditional statement by alleging that Watanabe discloses and the examiner admits that a goal processing is performed regardless of whether the voice information contains command information *(Amendment, Page 59)*. In response, the examiner once again notes that there is nothing in Watanabe that states that the processing subsequent to determining that a voice input is a command is always performed, nor was there any admission by the examiner to the effect of a lacking conditional statement. Watanabe, as was previously

discussed, accepts a natural language speech input from a user *(Fig. 2, Element 10)* and attempts to determine if it is a command by checking for and extracting semantic information *(Col. 5, Lines 1-16)*. In the case of a statement containing nonsense or a vocabulary outside of that known to the system, no meaning could be extracted. Thus, although not claimed, Watanabe does teach the negative side of this conditional statement. This non-claiming is important to note here. The applicant is arguing that Watanabe fails to teach the conditional statement "and if so then" thus implying that Watanabe does not teach if not then not performing the subsequent steps. Such processing is not claimed. It is important to note the distinction between what the applicant is arguing and what is actually being claimed. The limitation in question reads "Determining whether the voice information includes command information, and if so then". In the case of Watanabe, his invention does feature a step that checks for semantic command information *(Col. 5, Lines 1-16)* and if it detects this information *(i.e., "if so then")* performs the applicant's claimed subsequent steps *(See Prior OA, Pages 11-12)*. There is no conditional statement in the claims reading "if not then" as the applicant appears to be alleging and which is the point of contention here. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the "if not then" statement) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Thus, for this additional reason this argument has been fully considered, but is not convincing.

In regards to the same "Determining" limitation, the applicant argues that this limitation is not even considered by Watanabe because various processes associated with determining presented in the specification are allegedly not taught by Watanabe which supposedly only teaches command processes *(Amendment, Page 60)*. In response, the examiner notes that the applicant appears to be interpreting their claim scope much more narrowly than what is actually quite broadly claimed. The limitation in question simply states “Determining whether the voice command includes *command information*”. In Watanabe an input statement of a user is analyzed syntactically and semantically to determine if command information *(terms, structures, etc.)* is present *(Col. 5, Lines 1-16; and Col. 5, Lines 60-67)*. The applicant even admits that Watanabe provides command determination *(Amendment, Page 60)*. Thus, this argument has been fully considered, but is not convincing.

The applicant subsequently focuses on the limitation regarding "determining one or more specificities corresponding to the command information" and argues that Watanabe fails to teach this recitation *(Amendment, Page 60)*. Specifically, the applicant first argues that Watanabe does not even “remotely relate to anything more than matching the so-called "user goal" with a corresponding predetermined system operation" *(Amendment, Page 61)*. In response, the examiner notes that it is this teaching that anticipates the applicant’s recited specificities. Watanabe teaches that upon extracting a user based objective *(Col. 5, Lines 1-16 and Col. 5, Line 60- Col. 6, Line 3)*, voice information is further analyzed with respect to a specific system function or access/functional component *(Col. 5, Lines 1-16; Col. 6, Lines 13-21)*. Since specific

interactive system functions or "specificities" to which the voice input signal is interpreted as being directed to is determined by Watanabe, this argument has been fully considered, but is not convincing. The applicant also makes a traversal with respect to Watanabe's user goal allegedly corresponding to the system goal and makes the conclusion that Watanabe's correspondence here contradicts the claimed specificity determination. In response, the examiner notes that, as was pointed out above, Watanabe specifically analyzes a voice input to extract a specific system meaning from a user's naturally phrased optionally structured input. It is unclear, how any correspondence between user and system goals would contradict anything in the claims *(for example, there is no recitation of a disagreement between the user based objectives and the specificities in the claimed invention).* Thus, this argument has been fully considered, but is not convincing. Finally, in regards to this limitation, the applicant argues that nowhere in Watanabe are modifiable "specifiable commands "discussed (Amendment, Pages 61-62). Although the applicant is arguing features which are not claimed, the examiner notes that a varying degree of user specificity is nonetheless taught by Watanabe. In Watanabe, a user is capable of inputting any type of naturally spoken statement in order to accomplish a goal *(Col. 5, Lines 1-16).* Through system goal determining meaning of the user's naturally varying speech input is extracted an a specific meaning rendered *(Col. 6, Lines 13-21).* While the system of Watanabe has a general scope of extraction, it is important to note that his system does not operate on a *restrictive grammar* as is alleged by the applicant because it allows meaning extraction from a *natural language* input. Thus, this argument has been fully considered, but is not

convincing based on the fact that the applicant is arguing features which are not claimed and that Watanabe actually teaches these types of commands.

The applicant next makes a statement that the Watanabe reference cannot be modified because if it was it would "clearly" be inoperable and not enabled (Amendment, Page 62). While such a statement is moot because the maintained art rejection is directed to one under anticipation via 35 U.S.C. 102(e), this argument is baseless. A broad statement such as this one made by the applicant cannot be made without first considering a set of possible modifications.

The applicant continues their argument by turning to the limitation regarding "determining a conversant command execution corresponding to use-based objectives and the specificities" *(Amendment, Pages 62-64)*, which they allege is not taught by Watanabe. Specifically, the applicant cites the section of Watanabe applied in the art rejection and argues that Watanabe merely discloses that a "command execution is conducted using a sequence of first "feasible" actions" and fails to discuss the command execution being a "conversant one" *(Amendment, Page 63)*. The applicant also attempts to argue that the examiner has not even admitted that the execution in Watanabe is conversant *(Amendment, Pages 63-64)*.

In response, the examiner notes that Watanabe analyzes an input corresponding to "natural language speech" *(Col. 5, Line 61)*. In the speech analysis, Watanabe's system extracts user and system goals *(Col. 5, Lines 1-16)* and then proceeds to determine an action execution based upon these goals *(Col. 5, Lines 29-50; and Col. 6, Line 36- Col. 7, Line 5)*. It is important to note that the executed actions correspond to

the user's input "natural language speech". In this manner, the actions performed by Watanabe are "conversant". Also, the examiner points out that the brief description provided in the cited sections of Watanabe is directly mapped to the "conversant command execution" so it was clear that the examiner did recite that conversant commands were taught by Watanabe. Thus, these arguments have been fully considered, but are not convincing. In response to the applicant's commentary regarding the modification of Watanabe *(Amendment, Page 64)*, the examiner notes that this argument has already been addressed. As such, see the corresponding associated response.

Thus, based on at least the aforementioned reasons, the applicant's arguments directed towards claim 1 have been fully considered, but are not convincing.

The applicant traverses the art rejections directed towards claims 2-3 for reasons similar to claim 1 *(Amendment, Page 65)*. In regards to such arguments, see the preceding response directed towards claim 1.

The applicant traverses the art rejections directed towards dependent claims 5-8, 12, 15-36, 38-39, and 42-44 for reasons similar to claim 1 *(Amendment, Page 65)*. In regards to such arguments, see the preceding response directed towards claim 1.

The applicant traverses the art rejections directed towards claims 4, 9-10, and 13-14 for reasons similar to claim 1 *(Amendment, Pages 66-67)*. In regards to such arguments, see the preceding response directed towards claim 1.

The applicant traverses the art rejection directed towards dependent claim 40 for reasons similar to claim 1 *(Amendment, Pages 67-68)*. In regards to such arguments, see the preceding response directed towards claim 1.

Thus, for at least the preceding reasons, the applicant's arguments have been fully considered, but are not convincing.

Specification

16. The disclosure is objected to because of the following informalities

On page 35, "use objective" should be changed to –user objective-- in order to make this terminology more consistent with that utilized in the reminder of the specification and because the sentence in which it is contained specifies a user-based objective.

Appropriate correction is required.

17. The amendment filed 4/3/2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The applicant's amendment to the specification beginning at page 8, Line 3 includes new matter because it refers back to Figs. 3A, 13B, 15F, and 15 G, which

contains new matter. The specific reasons as to why these drawings are directed to new matter are described in further detail below.

The applicant's amendment to the specification beginning at page 58, line 5 includes new matter because it refers back to Figs. 3A and 13B, which contains new matter. Figs. 3A and 13B contains elements that were not disclosed in the specification as filed *(for example, entertainment systems)*.

This amendment also references other Figures containing new matter- 15F *(no mention of use of image recognition type processing for user identification)*, and 15G *(no mention of trapping database or selective output portion)*. The descriptions of these figures are found in the amended specification beginning at Page 8, Line 3.

The applicant's amendment to the specification beginning at page 22, line 14 includes new matter. This portion of the specification corresponds to originally submitted Figure 3a. The specification as originally filed did not make any mention of head/body position recognition or gaze to affect machine portions. Although the specification does consider the entry of non-speech gestures, the specification makes no mention of what is included in these gestures or how they can be recognized and processed.

The applicant's amendment to the specification beginning at page 27, line 4 includes new matter because it refers back to Fig. 15G, which contains new matter. The specification as filed makes no mention of the interpreter processor connected to a "trapped" database and also having a selective output portion *(i.e., no output or processed output)*.

The applicant's amendment to the specification beginning at page 30, line 11 incorporates new matter. The specification as originally filed is silent on the newly recited types of lesser related intermittent tasks because there is no mention of controlling lights, television, stereo/gaming systems, etc.

The applicant's amendment to the specification beginning at page 32, line 29 includes new matter because it refers back to Fig. 13B, which contains new matter. Fig. 13B contains elements that were not disclosed in the specification as filed *(for example, entertainment and gaming systems)*.

The applicant's amendment to the specification beginning at page 47, line 10 includes new matter because it redefines the context and task engines by deleting part of their definition from the specification.

The applicant's amendment to the specification beginning at page 58, line 5 includes new matter because it refers back to Figs. 3A and 13B, which contains new

matter. Figs. 3A and 13B contain elements that were not disclosed in the specification as filed *(for example, entertainment systems)*.

The applicant's amendment to the specification beginning at page 65, line 22 includes new matter. More specifically, the specification as originally filed did include a command input resolver in the drawings, but is completely silent as to how it would function. The added description of this element was thus not mentioned and is directed to new matter. Similar issues apply to the added enhancement engine (616) components *(i.e., machine switcher, query engine, choice/error feedback)*.

Applicant is required to cancel the new matter in the reply to this Office Action.

18. The amendment filed 5/5/2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

In the amendment beginning at Page 74, Line 3, regarding the added paragraph describing Fig. 10b, the "smart phone" was not shown in original Figure 10B *(which was initially unnumbered and found on the drawing page beginning the "Control Interface")* nor was there any discussion of a "smart phone" in the originally filed specification. Looking to original Fig. 10B, a black object can be seen next to a user's ear which

appears to be a phone. New Fig. 10B which was filed on 4/3/2008 provided a better representation of the originally submitted hand drawing, but there was nothing in the original drawing or the specification that indicated that the phone was a "smart phone". Thus, the inclusion of "smart phone" directs this paragraph towards new matter.

In the amendment beginning at Page 74, Line 3, regarding the last sentence of the added paragraph describing Fig. 10C, the examiner notes that while this Figure was shown in the originally filed specification as being Fig. 5, there was nothing in the figure or the specification to indicate that the process could be reversed. In fact, original Fig. 5 explicitly indicated uni-directions left-to-right operations. Looking at original Fig. 5, an arrow labeled "conversational commands" can be seen pointing to the right, while the output of the converter can also been seen as pointing to the right and is labeled "To Voice Command Interpreter". It is clear from looking at this drawing then, that there was no reverse process even contemplated in the originally filed specification/drawings. As the paragraph describing 10C includes reverse processing, it is directed towards new matter.

In the amendment beginning at Page 74, Line 3, regarding the added paragraph describing Fig15G. *(a figure which was noted was being directed to new matter)*, the applicant has compounded the new matter issue by adding a description of this drawing. As this drawing is directed towards new matter, these added descriptions are likewise objected to as being directed towards new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

Drawings

19. The drawings are objected to because Figs. 3A *(different items not originally shown)*, 15G *(trapped database, selective output portion)*, and 13B (*different items not originally shown)*.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

20. **Claims 1-44** are objected to because of the following informalities:

Claims 1, 3, and 4 recite "use-based" objectives, but it appears this limitation should state --user based objectives-- *(for example, see specification, Page 10)*.

The remainder of the dependent claims fail to overcome the preceding objections and thus, are similarly objected to by virtue of their dependency.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

21. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

22. **Claims 1-3, 5-10, 12-36, and 38-44** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim(s) 1 and associated dependent claims 2, 5-10, 12-36, and 38-44 is/are rejected under 35 USC 101 as not falling within one of the four statutory categories of invention. While the claim(s) recite a series of steps or acts to be performed, a statutory "process" under 35 USC 101 must (1) be tied to another statutory category (such as a manufacture or a machine), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. The instant claim(s) neither transform

underlying subject matter *(i.e., the claim fails to transform physical matter to a different state or thing)* nor positively recite structure associated with another statutory category *(i.e., the claim does not explicitly require the use of any type of physical hardware and could be performed by a human. For example- a human could receive a request for assistance from another machine user, understand their voice request, determine the goal of the user based on the understanding, determine the object of the goal based on the understanding, and perform an understood function to assist the user.)*, and therefore do not define a statutory process. Also claim 2 is appears to be directed to a system and method for forming this system. A method and system does not fall within *one* of the four statutory categories of invention *(i.e., process, machine, manufacture, or composition of matter)* because it claims two categories. "Such claims may also be rejected under 35 U.S.C. 101 based on the theory that the claim is directed to neither a "process" nor a "machine," but rather embraces or overlaps two different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. Id. at 1551." See MPEP 2173.05(p) (II).

Although **claim(s) 3** appears to fall within a statutory category *(i.e., apparatus)*, claim(s) 3 encompasses nothing more than logic/software modules as per the specification *("System 200 element implementations can include….software", Page 19).* Thus, claim(s) 3 are directed to non-statutory subject matter because their scope includes a computer program embodiment, an abstract data structure which does not fall within one of the four statutory categories *(i.e., it is directed to a program per se).*

See also MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

Claim Rejections - 35 USC § 112

23. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

24. **Claims 2 and 25-26** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In **claim 2**, it is uncertain/unclear how the method of claim 1 produces an interfacing system. Claim 1 is directed towards a claimed interfacing method and it is an uncertain how a method for determining user commands forms/creates a system as claim 2 recites. A system requires structural elements, which claim 2 lacks. Thus, claim 2 is indefinite. Also, in the case that the applicant is intending to claim a system and its use- A single claim which claims both an apparatus and the method steps of using the apparatus is indefinite under 35 U.S.C. 112, second paragraph. IPXL Holdings v. Amazon.com, Inc., 430 F.2d 1377, 1384, 77 USPQ2d 1140, 1145 (Fed. Cir. 2005); Ex parte Lyell, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990) *(claim directed to an automatic transmission workstand and the method of using it held ambiguous and properly rejected under 35 U.S.C. 112, second paragraph)*. See MPEP 2173.05(p) (II).

In **claim 25**, it is uncertain whether the term in parenthesis is actually a part of the claim or is alternative processing conducting means. The claim should be amended accordingly to better indicate what is meant by the parenthetical statement *(for example –an expression usage--)*. Claim 26 fails to overcome this 35 U.S.C. 112, second paragraph issue, and thus, is also rejected as being indefinite.

25. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

> art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

26. **Claim 28** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed makes no mention of trapping processing as is recited in claim 28.

Claim Rejections - 35 USC § 102

27. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

28. **Claims 1-3, 5-8, 12, 15-36, 38-39, and 42-44** are rejected under 35 U.S.C. 102(e) as being anticipated by Watanabe et al *(U.S. Patent: 6,035,267)*.

With respect to **Claim 1**, Watanabe discloses:

Receiving voice information corresponding to at least one machine user *(received input speech in a natural language from a user, Col. 4, Line 65- Col. 5, Line 16; Col. 5, Lines 60-62)*; and

Processing the voice information, the processing including:

Determining whether the voice information includes command information *(identifying semantic terms related to system commands, Col. 5, Lines 1-16)*;

Determining one or more use-based objectives corresponding to the voice information *(a user goal is determined for the voice input, Col. 5, Lines 1-16; and Col. 5, Line 60- Col. 6, Line 3)*;

Determining one or more specificities corresponding to the command information *(a system goal is determined, which corresponds to the user's command, Col. 5, Lines 1-16; Col. 6, Lines 13-21)*; and

Determining a conversant command execution corresponding to the use-based objectives and the specificities *(determining an action execution based on the goals, Col. 5, Lines 29-50; and Col. 6, Line 36- Col. 7, Line 5)*.

With respect to **Claim 2**, Watanabe further discloses:

An interfacing system formed according to the method of claim *1 (processing apparatus, Col. 4, Lines 65-66)*.

Claim 3 contains subject matter similar in scope to claims 1-2, and thus, is rejected under similar rationale.

With respect to **Claim 5**, Watanabe further discloses:

The voice information comprises at least one of: a conversant voice command recitation of one or more users, a non-conversant voice command recitation of one or more user and monitored speech of one or more users *(natural language speech commands, Col. 5, Lines 60-62).*

With respect to **Claim 6**, Watanabe further discloses:

The determining one or more use-based objectives comprises determining that at least one voice information portion of the voice information corresponds to at least one of a user task and a user goal *(user goal identification from input speech information, Col. 5, Lines 1-16; and Col. 5, Line 60- Col. 6, Line 3).*

With respect to **Claim 7**, Watanabe further discloses:

The determining one or more use-based objectives comprises determining that at least a voice information portion of the voice information corresponds to at least one of a group task and a group goal *(variations of multiple user speech commands are grouped under a goal, Col. 5, Lines 51-59).*

With respect to **Claim 8**, Watanabe further discloses:

The determining one or more specificities includes determining one or more explicit specificities as corresponding to one or more explicitly recited voice information portions of the voice information *(system goals directly correspond to the user speech input, Col. 5, Line 54- Col. 6, Line 21).*

With respect to **Claim 12**, Watanabe further discloses:

Determining one or more machine portions of the one or more hosted machines for effecting the one or more use-based objectives *(determining system portions for effecting user goals, Col. 7, Lines 6-25).*

With respect to **Claim 15**, Watanabe further discloses:

At least a portion of the processing is conducted in accordance with one or more of a context, a conversant context, an interaction, an approach, and a scenario *(context is utilized in conversational processing, Col. 6, Lines 54- Col. 7, Line 5).*

With respect to **Claim 16**, Watanabe further discloses:

Determining at least one likely further use-based objective that may be determined in accordance with further received voice information (further request for information to which a user responds with additional voice information, Col. 6, Line 54- Col. 7, Line 5; and user goal determination, Col. 5, Lines 1-16); and

Conducting at least a portion of the processing in accordance with the at least one likely further use-based objective *(processing is continually performed according to user goals, Col. 7, Lines 52-62).*

With respect to **Claim 17**, Watanabe further discloses:

Processing is conducted in accordance with at least one of a processing history, a user habit, and a user tendency of at least one user *(history information is utilized in processing, Col. 6, Lines 54-67).*

With respect to **Claim 18**, Watanabe further discloses:

AT least a portion of the processing is conducted in accordance with a content characterization, the content characterization including at least one of an information type, an information use, an information application, and an information purpose *(information application including tagged information for searching, Col. 7, Lines 6-25).*

With respect to **Claim 19**, Watanabe further discloses:

The information type is selected from a group including commands, data, biometric data, dictation, and specific data type *(specific value associated with a type of data, Col. 7, Lines 6-25).*

With respect to **Claim 20**, Watanabe further discloses:

The information type is selected from a group including silence, misstatement, mis-recitation, private information, and confidential information *(processing involving classification of a misstatement or mis-recitation in the form of an illegal input, Col. 7, Lines 6-25).*

With respect to **Claim 21**, Watanabe further discloses the processing of business information *(hotel, airline, etc, Col. 7, Lines 6-25).*

With respect to **Claim 22**, Watanabe further recites:

The information application is selected from a group including charting, home control, calendaring, vehicle operation, communication, multimedia production, media presentation, and document production *(communication and scheduling flights or hotel stays, Col. 7, Lines 6-25).*

With respect to **Claim 23**, Watanabe further recites:

The information purpose is selected form a group including a particularized objective and a subject matter of a user to which at least one of a command portion, a data portion, a dictation portion is determined to be directed *(command directed to a user/system goal, Col. 5, Line 60- Col. 6, Line 21; and Col. 7, Lines 52-62).*

With respect to **Claim 24**, Watanabe further discloses filling-in or reviewing booking form information *(Col. 7, Lines 6-25).*

With respect to **Claim 25**, Watanabe further discloses:

The processing is conducted in accordance with a usage (expression characterization) corresponding to at least a portion of the voice information *(processing carried out according to expression characterization via language syntax, Col. 5, Line 60- Col. 6, Line 3).*

With respect to **Claim 26**, Watanabe further discloses that the manner of expression is selected from a group including language, dialect and colloquialism, inflection, biometrics, physical gesture, and non-speech expression *(expression in a user's natural language, Col. 5, Line 60- Col. 6, Line 3).*

With respect to **Claim 27**, Watanabe further discloses disabling illegal speech input portions and enabling the acceptable portions *(Col. 7, Lines 6-25).*

With respect to **Claim 28**, Watanabe further discloses trapping and muting and substitution of incorrect/insufficient speech inputs *(Col. 6, Line 54- Col. 7, Line 25).*

With respect to **Claim 29**, Watanabe further recites local speech vocabulary word determination *(i.e., speech recognition)* involving syntax understanding *(Col. 5, Line 60- Col. 6, Line 3).*

With respect to **Claim 30**, Watanabe further discloses:

The processing further comprises determining at least one of an operational mistake, corrective action, and implicit user assisting in accordance with at least one of a content characterization and an expression characterization *(user assistance provided to a user in response to input speech characterization, Col. 6, Line 54- Col. 7, Line 5)*.

With respect to **Claim 31**, Watanabe further discloses:

Determining that a portion of the voice information corresponds with an anti-alias *(determining a portion of a user's voice input that is a name that is not an alias, Col. 5, Line 51- Col. 6, Line 3)*, the anti-alias comprising an anti-alias designation indicating at least one specific target of the anti-alias *(anti-alias name designation associated with a target under a user goal, Col. 5, Line 51- Col. 6, Line 3; and Figs. 3-4)*; and

Resolving the anti-alias *(resolving the meaning of the non-alias using natural language understanding, Col. 5, Line 51- Col. 6, Line 3)*.

With respect to **Claim 32**, Watanabe further discloses:

The resolving the anti-alias comprises determining at least one specific target in accordance with at least one of a current class membership, a current title, and a currently performed function (*determining the anti-alias target based on a current user goal function context, Col. 5, Line 51- Col. 6, Line 3; and Col. 7, Lines 26-62)*;

The at least one specific target and the at least one of a class, title, and function correspond with one or more of explicit and implicit specificities, the one or more specificities further corresponding to at least a portion of the voice information and the voice information corresponds with one or more recitations *(explicit target is associated*

with the alias under a user goal and further system goal and is derived from user speech, Col. 5, Line 51- Col. 6, Line 21; and Col. 7, Lines 26-62).

With respect to **Claim 33**, Watanabe further discloses:

The anti-alias designation indicates at least one of a target classification designation and a source of target resolution information in accordance with which the anti-alias may be resolved *(the target of the alias is associated with a term having a field class designation, Col. 5, Line 51- Col. 6, Line 3)*; and

The anti-alias further comprises: an association of the target-anti-alias designation with at least one specificity *(anti-alias is associated with a system goal information, Col. 5, Line 60, Col. 6, Line 21).*

With respect to **Claim 34**, Watanabe further discloses:

The anti-alias designation indicates possession *(the designation points back to the alias, indicating possession of that term under a user goal, Col. 5, Line 51- Col. 6, Line 3; and Fig. 4).*

With respect to **Claim 35**, Watanabe further discloses:

The determining a conversant command execution includes designating at least one machine portion for executing at least a portion of the voice information *(designating a machine portion upon which the action is to be performed, Col. 7, Lines 6-25)*;

The designating is conducted in accordance with at least one of a not explicitly stated ("implied") specificity and the use-based objective *(designating a machine portion through the user goal, Col. 6, Line 54- Col. 7, Line 25)*, thereby enabling one or more of

feedback corresponding to the transition or non-transition, completion of a designation objective and preparation corresponding to a likely successive user recitation *(communication feedback regarding completion of a goal or transition/non-transition to another system state, Col. 7, Lines 1-62)*; and

Wherein:

the designating causes a designation of a current machine portion to transition to a non-current machine portion, causing the executing to be conducted by invoking operabilities of the non-current machine portion *(switching to another system processing portion through a changed goal, Col. 6, Line 54- Col. 7, Line 5; and Col. 7, Lines 52-62).*

With respect to **Claim 36**, Watanabe further discloses:

The designating is further conducted in accordance with at least one of an operational history, a user habit and a user tendency *(employment of an interaction history, Col. 6, Line 54- Col. 7, Line 5).*

With respect to **Claim 38**, Watanabe further discloses an application program having a GUI *(Col. 7, Lines 6-25).*

With respect to **Claim 39**, Watanabe further discloses:

The voice information includes previously received voice information and currently received voice information *(current speech and speech corresponding to a previous iteration stored in a history, Col. 5, Line 60- Col. 6, Line 3; and Col. 6, Line 54- Col. 7, Line 5)*;

At least one of the determining a use-based objective, the determining one or more specificities and the determining a conversant execution includes determining that

at least a portion of the currently received voice information corresponds with at least a portion of the previously received voice information ('determining a correspondence") *(the processing involves looking at a history storage to determine arguments that exits from a previous speech section, Col. 6, Line 54- Col. 7, Line 5)*;

At least one of the determining a use-based objective, the determining one or more specificities and the determining a conversant execution includes processing at least a portion of the previously received voice information and the currently received voice information as a discontinuous recitation of a use-based objective *(associating mandatory arguments from multiple speech iterations as a discontinuous recitation of a user goal, Col. 6, Line 54- Col. 7, Line 5; and Col. 7, Lines 26-62).*

With respect to **Claim 42**, Watanabe further discloses discontinuous argument items of a goal group that can be processed in different iterations *(Col. 6, Line 54- Col. 7, Line 5).*

With respect to **Claim 43**, Watanabe further discloses a missing element that cues an action is determined to be executed *(Col. 6, Line 54- Col. 7, Line 46).*

With respect to **Claim 44**, Watanabe teaches that when a missing argument is input and a user statement is complete, the information in the history storage is acted upon to execute an appropriate command *(Col. 6, Line 54- Col. 7, Line 25).*

Claim Rejections - 35 USC § 103

29. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

30. **Claims 4, 9-10, and 13-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al in view of Coffman et al *(U.S. Patent: 6,377,913)*.

With respect to **Claim 4**, Watanabe discloses the user-goal based speech processing method, as applied to Claim 1. Watanabe does not explicitly teach method implementation as a program stored on a computer readable medium, however, Coffman recites implementing a speech recognition method as software stored in memory *(Col. 3, Lines 30-34)*.

Watanabe and Coffman are analogous art because they are from a similar field of endeavor in speech controlled systems. Thus, it would have been obvious to a /person of ordinary skill in the art, at the time of invention, to modify the teachings of Watanabe with the concept of method implementation as a computer program as taught by Coffman in order to allow the speech processing system of Watanabe to be implemented in any general purpose computer *(Coffman, Col. 3, Lines 32-35)*.

With respect to **Claim 9**, Watanabe discloses the user-goal based speech processing method, as applied to Claim 1. Watanabe does not explicitly teach the execution of implied specificities, however, Coffman teaches the ability to execute a

command with implied user information that is not actually included in the spoken input *(Col. 4, Line 35- Col. 5, Line 32)* to better understand a user and customize system responses *(Coffman, Col. 6, Lines 54-60)*.

With respect to **Claim 10**, Coffman further discloses processing performed according to user identification *(Col. 4, Line 35- Col. 5, Line 11)*.

With respect to **Claim 13**, Coffman further discloses processing conducted in accordance with a machine association with a user *(Col. 4, Line 35- Col. 5, Line 11)*.

With respect to **Claim 14**, Coffman further discloses processing conducted in accordance with a machine portion use *(Col. 4, Lines 35- Col. 5, Line 52)*.

31. **Claim 40** is rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al in view of Coffman et al *(U.S. Patent: 6,799,169)*.

With respect to **Claim 40**, Watanabe discloses the speech processing system that relates past and current commands, as applied to claim 39. Also, Watanabe further discloses:

The determining a correspondence determines that the currently received information at least partially completes the previously received information by including one or more corresponding specificities having a same input type characterization *(arguments from past and present required to complete a system goal, Col. 6, Line 54- Col. 7, Line 5)*;

The determining a correspondence determines that the currently received information at least partially completes the previously received information by providing

one or more corresponding specificities having a different input type characterization *(arguments in goal frame filling portions that have a different input syntax characterization, Col. 5, Line 60- Col. 6, Line 3; and Col. 6, Line 54- Col. 7, Line 5)*; and

The determining a correspondence determines that at least one of the previously recited information and the currently received information comprises a partial recitation (portions of a complete state correspond to each voice portion, Col. 6, Line 54- Col. 7, Line 5).

Watanabe does not specifically teach determine a correspondence according to a linking indicator, however, Coffman '169 recites:

The determining a correspondence determines that the previously received information and the currently received voice information correspond with an interrupted single recitation *(determining an interrupted speech recognition session, Col. 5, Lines 1-20)*; and

The determining a correspondence comprises determining that at least one of the previously received voice information and the currently received voice information includes a linking indicator *(response type indicator associated with the past and present voice information, Col. 4, Lines 28-54)*.

Watanabe and Coffman '169 are analogous art because they are from a similar field of endeavor in speech controlled systems. Thus, it would have been obvious to a /person of ordinary skill in the art, at the time of invention, to modify the teachings of Watanabe with the association means taught by Coffman '169 in order to allow the user

the option to complete any action at a later time or not at all *(Coffman '169, Col. 5, Lines 18-21).*

32. **Claim 41** is rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al in view of Goldhor et al *(U.S. Patent: 5,970,448).*

With respect to **Claim 41**, Watanabe discloses the speech processing system that relates past and current commands, as applied to claim 39. Watanabe does not specifically suggest the processing of claim 41 involving a linking indicator, however, Goldhor discloses:

Conducting independent processing corresponding to at least a portion of the previously received information *(performing speech recognition processing on a portion of the previous voice information, Col. 8, Lines 24-39)*;

Preserving the independent processing if the currently received voice information includes a linking indicator *(a next speech entry is provided having a connecting pointer and a previous speech input processing is maintained, Col. 8, Lines 40-56; and Col. 6, Lines 6-15)*; and

Modifying at least a portion of a result obtained in accordance with the independent processing if the currently received voice information does not include a linking indicator *(command is received that modifies the previous processing result, Col. 9, Lines 15-35).*

Watanabe and Goldhor are analogous art because they are from a similar field of endeavor in speech controlled systems. Thus, it would have been obvious to a /person

of ordinary skill in the art, at the time of invention, to modify the teachings of Watanabe with the pointer-related processing taught by Goldhor in order to allow a user to continue an interactive speech session at a later time *(Goldhor, Col. 5, Lines 48-56)*.

Conclusion

33. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: See PTO-892.

34. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Wozniak whose telephone number is (571) 272-7632. The examiner can normally be reached on M-Th, 7:30-5:00, F, 7:30-4, Off Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached at (571) 272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/James S. Wozniak/
Primary Examiner, Art Unit 2626